

**Before The
Federal Communications Commission
Washington, D.C. 20554**

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In the Matter of)

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Advanced Television Systems)
and Their Impact Upon the)
Existing Television Broadcast)
Service)

MM Docket No. 87-268

To: The Commission

JOINT OPPOSITION TO PETITION FOR RECONSIDERATION

Board of Regents of the University of Wisconsin System ("UWS"), Maine Public Broadcasting Corporation ("MPBC"), Northeastern Educational Television of Ohio, Inc. ("NETO"), Ohio University ("OU") and South Carolina Educational Television Commission ("SCETV") (collectively, "Public TV Licensees"), by their attorneys, oppose the "Petition for Reconsideration" ("Petition") filed June 13, 1997 in the referenced docket by Trinity Christian Center of Santa Ana, Inc., d/b/a Trinity Broadcasting Network ("TBN"). At the expense of favorable and efficient DTV allotments by the Commission associated with the Public TV Licensees' noncommercial educational television stations, TBN's Petition seeks to protect TV translator facilities, all of which have secondary status under FCC rules. TBN's proposed substitute DTV allotments for the Public TV Licensees would not serve the public interest. Therefore, its Petition should be denied.

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Background

The Public TV licensees are all long-standing operators of public television stations. UWS is licensee of Station WHA-TV, Channel 21, Madison, Wisconsin. It has been allotted Channel 20 for DTV. MPBC is licensee of Station WCBB, Channel 10, Augusta, Maine. It has been allotted Channel 17 for DTV. NETO is licensee of Station WEAO-TV, Channel 49, Akron, Ohio. It has been allotted Channel 32 for DTV. OU is licensee of Station WOUC-TV, Channel 44, Cambridge, Ohio. It has been allotted Channel 35 for DTV. SCETV is licensee of Station WNEH, Channel 38, Greenwood, South Carolina. It has been allotted Channel 18 for DTV. Each of the Public TV licensees looks forward to activation of their DTV channels and the continuation of its substantial noncommercial educational service in the digital world.

TBN is licensee of a number of secondary TV translator stations that operate on channels that may be precluded by the operation of the Public TV licensees on their allotted DTV channels. To protect its secondary service, TBN suggests that the FCC allot alternative DTV channels that would not result in preclusion of its translators. However, in each case, the alternative DTV channels would significantly impair the valuable public TV service of the Public TV Licensees. Although the Public TV Licensees sympathize with the dilemma of TBN, they believe that the burden of accommodating TBN's secondary service should be on TBN, rather than on the Public TV licensees and the public they serve. TBN should look to alternative channels for its operations, rather than

suggesting inferior or unworkable channels for their primary stations. The Public TV Licensees therefore oppose TBN's Petition.

WHA-TV

UWS has been allotted DTV Channel 20 for WHA-TV, Channel 21, Madison, Wisconsin. TBN seeks to substitute Channel 38 for Channel 20 as WHA-TV's DTV allotment. There are a number of problems with TBN's proposal. UWS has an auxiliary antenna on its tower for WHA-TV that will work as an interim DTV operation on Channel 20, but will not work on Channel 38. Thus, changing the allotment to Channel 38 would delay activation of its DTV service. Also, use of Channel 38 would require use of a waveguide instead of a transmission line, increasing windloading on the WHA-TV tower. This would present a problem because there are multiple TV stations using the tower, each of which will be activating DTV facilities at the site. Perhaps more importantly, there are Channel 38 NTSC stations in Green Bay, Wisconsin (WPNE-TV) and in Chicago, Illinois (WCFC-TV), each of which would be short-spaced to WHA-TV if it operated DTV facilities on Channel 38.^{1/} Thus, the price of accommodating TBN's translator station W19BH in Janesville, Wisconsin, would be limitations on WHA-TV's primary DTV service and/or interference to two other stations. This would be in addition to the added expense of constructing and operating the DTV station on Channel 38 rather than Channel 20. Moreover, accommodating TBN in this case requires a new DTV

^{1/} The distance between WPNE-TV in Green Bay and WHA-TV is 194.67 km. The distance between WCFC-TV in Chicago and WHA-TV is 203.1 km. The rules require DTV/analog co-channel spacings of 217.3 km.

channel for Station WMTV, Channel 15 in Madison, for which TBN has proposed a switch from Channel 19 to Channel 59, which is outside the core TV band. For these reasons, the TBN proposal would not be in the public interest.

WCCB(TV)

MPBN has been allotted DTV Channel 17 for WCCB, Channel 10, Augusta, Maine. TBN seeks to substitute Channel 32 for Channel 17 as WCCB's DTV allotment. However, operation of WCCB's DTV station on Channel 32 rather than 17 would result in substantial additional expense for MPBC as it attempts to replicate its VHF service on a UHF frequency. This is a serious problem for MPBC, which, as the operator of a state-wide public television network in Maine, must convert five public TV stations to digital operation and must therefore conserve funds to the greatest degree possible.^{2/} MPBC urges that it would not serve the public interest to require it to incur substantially greater costs to accommodate TBN's secondary translator facilities.

WEAO-TV

NETO has been allotted DTV Channel 32 for WEAO-TV, Channel 49 in Akron, Ohio. TBN seeks to substitute Channel 63 for Channel 32 as WEAO-TV's DTV allotment. This is clearly an untenable option. Operation of WEAO-TV's DTV station

^{2/} In addition, Channel 32 has been allotted by the Commission as the DTV frequency for Station WABU, NTSC Channel 68 in Boston, Massachusetts. The spacing between WCBB and WABU is about 205 km, very close to the required co-channel spacing between DTV facilities. In an effort to coordinate DTV operations by stations in Maine, it may be necessary to move WCBB's DTV facilities to the south. This could create a short-spacing on Channel 32 between WCBB and WABU.

on Channel 63 as opposed to 32 would result in massive additional construction and operational expenses for NETO as it attempts to activate DTV service on such a high UHF frequency. Even worse, the proposal would require NETO to change channel for the station after the transition period. Indeed, in the *Notice of Proposed Rule Making* in ET Docket No. 97-157, FCC 97-245 (released July 10, 1997), the Commission has already begun steps to reclaim Channels 60-69 for other purposes as they are outside of the core spectrum for TV operations. Thus, in order to protect TBN's secondary translator service, NETO would be required to activate its station on Channel 63, only to move it to another channel after the transition period. The Commission would also be unable to authorize use for other purposes of Channel 63 (and perhaps adjacent channels) in the Cleveland/Akron area through at least the year 2006. The enormity of this burden on NETO and on the public interest is evident. TBN's proposal must be rejected.

WOUC-TV

OU has been allotted DTV Channel 35 for WOUC-TV, Channel 44, Cambridge, Ohio. TBN seeks to substitute Channel 54 for Channel 35 as WNEH's DTV allotment. TBN's proposal would not be in the public interest. Operation of OU's DTV station on Channel 54 as opposed to 35 would result in additional construction and operational expenses for OU as it attempts to activate DTV service on such a high UHF frequency. At the same time, OU would be required to activate DTV service on its other public TV station serving Athens, Ohio. The proposal for OU to activate its DTV service on Channel 54 would also require it to change channel for the station after the transition

period. Although the *Notice of Proposed Rule Making* in ET Docket No. 97-157 only covers Channels 60-69, under any scenario presented by the *Sixth Report and Order* in MM Docket No. 87-268, FCC 97-115 (released April 21, 1997) ("*Sixth R&O*"), Channel 54 will be reclaimed by the Commission for other purposes as it is outside of the core spectrum for TV operations. Thus, once again, in order to protect TBN's secondary translator service, OU would be required to activate its station on Channel 54, only to move it to another channel after the transition period. TBN's proposal should be rejected.

WNEH

SCETV has been allotted DTV Channel 18 for WNEH, Channel 38, Greenwood, South Carolina. TBN seeks to substitute Channel 58 for Channel 18 as WNEH's DTV allotment. Again, TBN's proposal is a problem. Operation of WNEH's DTV station on Channel 58 as opposed to 18 would result in massive additional construction and operational expenses. SCETV will also be activating DTV service on the other 10 public TV stations in its network serving the entire state of South Carolina. The proposal for SCETV to activate its DTV service on Channel 58 would also require it to change channel for the station after the transition period. As noted above, under any scenario presented by the *Sixth R&O*, Channel 58 is outside of the core spectrum for TV operations. Thus, once again, in order to protect TBN's secondary translator service, SCETV would be required to activate its station on Channel 58, only to move it to another channel after the transition period. TBN's proposal is clearly not in the public interest, and it must therefore be rejected.

Other Options for TBN

As noted above, the Public TV licensees are not without sympathy for the plight of TBN and other operators of LPTVs and TV translators. Indeed, many Public TV licensees operate and rely on the provision of service by such facilities to serve their audiences. However, in the *Sixth R&O*, at ¶¶ 141-47, the FCC adopted a number of changes to its rules to mitigate the impact of the DTV conversion plan on LPTV and TV translator stations. These changes include allowing such stations displaced by new DTV stations to apply for suitable replacement channels; considering such applications on a first-come first-served basis without subjecting them to competing applications, and technical rule changes to provide additional operating flexibility. In addition, LPTV and TV translator stations will not be required to alter or cease their operations until they actually cause interference to new DTV service or to any primary services operating outside the core TV spectrum. Thus, there are options for TBN to pursue other than the disruptive proposals put forth in its Petition. It ought to expend its energies exploring those options.

Conclusion

For the foregoing reasons, TBN's proposed DTV allotment changes do not work and should be rejected. Moreover, there is an additional principle at stake here beyond the simple unworkability of TBN's proposed substitute channels. If the Commission permits parties--particularly those motivated by protection of secondary services--to tinker with other parties' DTV channels on an involuntary basis, there will be no end to wrangling

over the DTV allotment table. If TBN seeks to have these or other DTV allotments changed, it should be required to obtain the consent of all affected stations by convincing them that it is in their interests, too, to make such changes. Having failed to even try to do so, TBN's entire petition is a presumptuous affront to the Commission's processes in this matter.

Respectfully submitted,

BOARD OF REGENTS OF THE UNIVERSITY OF
WISCONSIN SYSTEM

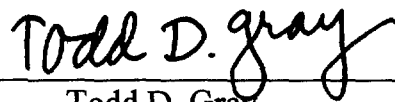
MAINE PUBLIC BROADCASTING CORPORATION

NORTHEASTERN EDUCATIONAL TELEVISION OF
OHIO, INC.

OHIO UNIVERSITY

SOUTH CAROLINA EDUCATIONAL TELEVISION
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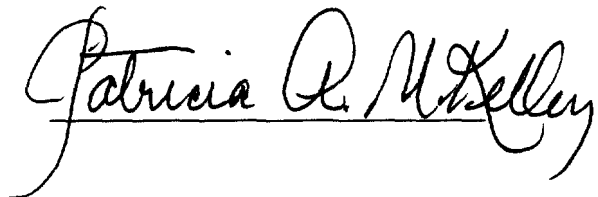
July 18, 1997

CERTIFICATE OF SERVICE

I hereby certify that I have this 18th day of July, 1997, served copies of the foregoing "Joint Opposition to Petition for Reconsideration" by First Class U.S. Mail, or by hand delivery, upon the following:

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A handwritten signature in cursive script, reading "Patricia A. McKelley". The signature is written in dark ink and is positioned above a horizontal line.

* Denotes service by hand delivery